



## **DOWRY SYSTEM – A CURSE TO INDIAN SOCIETY**

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### **INTRODUCTION**

India, a country having so many religions and cultures, which lead to more and more traditional customs which are further followed by the Indians. One of such culture is of Dowry System. Dowry system is nothing but a system or a kind of tradition in India where the bride's family give or transfer any type of goods or property, money and real estate at the time of marriage to the bridegroom's family or their relatives. The meaning of dowry system has been changed by time to time according to societal mindset. In ancient era, dowry was a kind of gift and present which were given to a girl by her parents at the time of her marriage, as she was going to start her new life. But in course of time, it became a kind of crude custom or practice where the bridegroom and his family torture and humiliate the bride and her family in order to get dowry which resulted in female infanticide, domestic violence, suicide, bride burning, rape, extortion, homicide and other related cruelties. This problem is not only faced by lower class or middle class but by the upper classes as well, both in rural as well as in urban areas. Due to the patriarchal mindset of our society where men hold primary power and have male dominated society, the women here suffers the most and therefore it can be seen in the dowry system as well because even though the dowry is from and for the bride, the bride get excluded and possession of such dowry is in the men's hand due to his power.

Dowry system is a kind of social evil which are still prevailing in the Indian society due to which dowry related harassments and deaths are increasing day by day. These crimes and offences have created an atmosphere of insecurity among women in the society. To tackle this there have been laws and Acts that have been enacted and incorporated by the legal system of the country. On the other side, various campaigns and awareness programs have been initiated by the Governmental and Non-Governmental Organisations against the dowry death and dowry system in India. Protection of young women against harassment and cruelty by her husband on account of dowry is the responsibility of the State (Government). Legislature has come up with many laws and acts to protect women from such offences. Therefore, parliament has enacted acts and provisions in view to eliminate this horrible act of dowry system from India. Though giving and demanding dowry is an offence and prohibited by Indian Legal System but the custom of dowry from the bride's family still prevails in our society.

### **EVOLUTION OF DOWRY SYSTEM IN INDIA**

Dowry system can be traced way back in the ancient India and existed even before the British Rule. Wedding in India are surrounded by many type of tradition and culture and therefore there are multiple rules and religious requirements that need to be fulfilled in order to make it legitimate or binding by those religious ceremony. One of such traditions that has been passed down in time and still continue is the system of dowry. Initially in the ancient system of dowry, bride's parents used to gave all wealth to her daughter in a way to help her daughter (bride) to be financially independent after going to her husband's home. It was just like how



parents used to give a part of wealth to their sons, so did they give it to their daughters too during the daughter's marriage. But the wealth here was given to the bride and not to the groom or his family. In simple words, we can say that the dowry wealth which was given by bride's family was continued to be owned by the wife (the daughter) and not by her husband or his family. This gave the required financial independence to women after going to her husband's home.

In the ancient marriage rite in the Vedic period are associated with kanyadan or the ceremony of giving away the bride (according to Hindu Shastras), the meritorious act of dan or ritual gifts are incomplete till the receiver is given a Dakshina. So when a bride is given over to the bridegroom, he has to be given something as Varadakshina. This Varadakshina was offered out of affection and did not constitute any kind of compulsion or consideration for marriage. It was a voluntary practice without any coercive action. The gift which was given by the parents to her daughter according to Hindu Dharamashastra suggest as the bride's own property i.e. Stridhan over which she enjoyed complete right and which would provide her financial protection in adverse time.<sup>1</sup>

Hence, during the Vedic period, marriage was a holy bond and there were some very basic and simple rules that people followed at the time of marriage but there is still no mention of Dowry or such traditions which are now days followed by the society. So, in the original system of dowry prevalent in India, dowry was completely a voluntary gift given by her parents and women were gifted

wealth from their parents during marriage and this served as a tool of financial independence for the bride even after the marriage. Today it is a way for a groom to extort money from a bride and her family.

### **DOWRY SYSTEM WHICH LEAD TO DOWRY DEATH IN INDIA**

Existence of one the worst system in our country i.e. the dowry system has caused many deaths of bride's and affected many women out there who directly or indirectly get affected because of this system. Here, dowry means the transfer of parental property, money or estate by the bride's family to the bridegroom's family or their relative at the time of marriage or after the marriage. Dowries include money, property, jewellery, vehicles, furniture, appliances, clothing or any kind of gift. In sort it includes anything from money to assets, movable and immovable property and etc. Dowry death can be defined as an unnatural death of the wife due to demand for dowry by the husband or his family in abnormal circumstances. Dowry death is related to bride's suicide or killing by his husband and his family soon after the marriage in relation to dowry or demand of the dowry soon after the marriage. Women are either killed by the husband or by his family, if their demand and greed for the dowry are not get fulfilled or the woman itself ends her life i.e. commit suicide because she could not face the harassments anymore over the fulfilment of the dowry.

With passing years cases related to dowry deaths in India are gradually increasing. Also cases of cruelty towards the wife by a husband or his relatives are increasing which is prominently caused by the demand for

<sup>1</sup> DIWAN PARAS, DOWRY AND PROTECTION TO MARRIED WOMEN 9-10, 311 (ed. 1985).



dowry and wife's inability to fulfil it. According to the last updated statistics given in the NCRB Report, 2018<sup>2</sup>, total number of reported cases related to suicide due to dowry related issues in the year 2018 was 2,416 and total number of reported cases related to cruelty by the husband or his relatives to the wife in the year 2018 was 110,478. India holds the highest number of dowry death cases in the world.

### LAWS TO PROTECT VICTIMS FROM DOWRY SYSTEM

As it is the responsibility of the State to protect their people, so with the increasing number of dowry death cases in India, the Government has laid some guidelines to deal with such cases and the laws have also been enacted and amended time to time for strengthening the legal system to protect and support the victims who come under the cases of dowry deaths or cruelty. We have The Indian Penal Code (I.P.C.), The Indian Evidence Act (I.E.A.) and The Dowry Prohibition Act (D.P.A.), to protect the women from being subjected to dowry deaths or cruelty arising out of disputes related to dowry.

#### THE DOWRY PROHIBITION ACT, 1961

The Dowry Prohibition Act was enacted on May 1, 2016 with a view to prevent giving and receiving of dowry and to provide relief to the victims of the dowry in the country. This act contains a total of 10 sections and following are the brief overview of those sections:

1) Section 1 – It deals with the short title, extent and commencement of the Act. This Act is

extended to whole of the India except Jammu and Kashmir.

- 2) Section 2 – This section provide definition of dowry. According to this section dowry is any kind of property or gift given by one party to other party at, before or after marriage.
- 3) Section 3 – It provide penalty for giving or taking dowry. Any person who found guilty under this section will be punished with imprisonment for a term not less than five years and with fine which shall not less than Rs 15,000 or amount of dowry whichever is more.
- 4) Section 4 – It provide penalty for demanding dowry. Under this section a person shall be punished with imprisonment for not less than 6 months but can be extend to 2 years and with fine which can be extended to Rs 10,000.
- 5) Section 4A – This section provide ban on such advertisement in any kind of newspaper, journal, etc, where any person offers any kind of interest in property, etc as consideration for marriage and any person who prints, publish or circulate any kind of such advertisement shall be punished with imprisonment for not less than 6 months but can be extended to 5 years and with fine which can be extend to Rs 15,000.
- 6) Section 5 – According to this section any agreement for giving or taking dowry is void.
- 7) Section 6 – This provision states that any kind of dowry received by any person other than the woman in connection with whom such dowry is received, that person shall transfer that dowry to such woman and if he fails to do so, then he will be punished with imprisonment of not less than 6 months but it can be extended to 2 years or with fine of not

<sup>2</sup> Crime in India, 2018 – National Crime Records Bureau, Ministry of Home Affairs, New Delhi, India.



less than Rs 5,000 but which can be extend to Rs 10,000 or with both.

- 8) Section 7 – This section provides cognizance of the offence. According to this section, no court inferior to Metropolitan Magistrate or a Judicial Magistrate first class shall try any offence under this Act. Court will take cognizance upon its own knowledge or a police report or upon a complaint of any person aggrieved by the offences.
  - 9) Section 8 – According to this section every offence under this Act shall be non-bailable and non-compoundable.
  - 10) Section 8A – This section states that any person who has taken or demanded the dowry than the burden of proving that he had not committed any offence under this Act is on him.
  - 11) Section 8B – According to this section State Government can appoint Dowry Prohibition Officer as many as it think fit and specify the area where the use their jurisdiction and power. This section also specifies the powers of such officer.
  - 12) Section 9 – According to this section powers to make rules for carrying out the purpose of this Act lies with the Central Government.
  - 13) Section 10 – State Government also has power to make rules for the respective state for carrying out or fulfilling the purpose of the Act according to this section.
- 1) Section 304-B of the Indian Penal Code deals with Dowry Death. According to this section if following essentials get fulfilled which are mentioned under this section, then the death of the woman will be considered as a dowry death and whoever commits dowry death shall be punished with imprisonment for not less than 7 years but which may extend to imprisonment for life:
    - The death of the woman should be caused by burns or bodily injury or under abnormal and suspicious circumstances.
    - Death must occur within 7 years of marriage.
    - It must be revealed that soon before her death she was subjected to cruelty or harassment by her husband or any of his relatives.
    - The cruelty or harassment on her should be in connection with the demand of dowry.
  - 2) Section 498-A of Indian Penal Code deals with husband or relative of husband of a woman subjected her to cruelty. This section says that if a woman is subjected to cruelty or harassment and such harassment or cruelty should be done by the husband or by his relatives, then they will be punished with imprisonment for a term which may extend to 3 years with fine.
  - 3) Section 113-B of Indian Evidence Act deals with presumption as to dowry death. It says that when the question is whether a person has committed the dowry death of a woman and it shows that soon before her death such woman had been subjected to cruelty or harassment by such person in connection with any demand for dowry then the court shall presume that such person has caused the dowry death. This section can only be applied if the essential ingredients of section 304-B of Indian Penal Code is fulfilled.

**THE INDIAN PENAL CODE AND THE INDIAN EVIDENCE ACT**

Dowry death is one of the heinous crimes. The demand of the dowry has every time caused death of a woman who get tortured and harassed for not fulfilling their demands and hence end their lives. The Indian Penal Code and The Indian Evidence Act deal with dowry death and the presumption as to dowry death.

**LANDMARK CASES AND JUDGMENTS**



In *Meka Ramaswamy v. Dasari Mohan and others*<sup>3</sup>, the Hon'ble Supreme Court held that if the wife dies within 7 years of the marriage and there was no demand for dowry and no cruelty or harassment or any kind of ill-treatment is not there, then the husband and his family is not held liable under section 304-B of Indian Penal Code. However, if a woman commits suicide or has been killed in relation to dowry and it happens soon before her death then section 304-B can be invoked<sup>4</sup>.

In *Balwant Singh and others v. State of Himachal Pradesh*<sup>5</sup>, it was said that the person who is acquitted under Section 304-B of the Indian Penal Code can also be convicted under Section 498-A of the Indian Penal Code as both of the section cannot be held as mutually inclusive.

In *Harjit Singh v. State of Punjab*, the court held that if there was no evidence that the woman was subjected to cruelty or harassment by the husband then the husband was get acquitted under Section 304-B of Indian Penal Code and the provision of Section 113-B of the Indian Evidence Act cannot be inflicted against him<sup>6</sup>.

In one of the landmark judgment against dowry death, the apex court held that the proof of demand of dowry as shown by the prosecution should not be too old from the death of the woman. The propinquity of dowry demand and the death of the victim should be established to evoke the expression of "soon before her death" and charge the accused under the Dowry Prohibition Act as well<sup>7</sup>.

<sup>3</sup> A.I.R. 1998 SC 774.

<sup>4</sup> *Bhagwan Das v. Kartar Singh and others*, A.I.R. 2007 SC 2045.

<sup>5</sup> (2008) 15 SCC 497.

## CONCLUSION

To conclude, it can be stated that the Government of India have been successful in laying down guidelines and enacted stringent laws keeping in mind the welfare of the society as well as full protection to the victims against one of the heinous practice (Dowry System) happening over the year. Though there are laws enacted to prevent such system but yet it needs a lot of efforts from the Government, Judiciary and from the society as well so as to eliminate such practices from our society which are prevailing even today. Dowry system always remains threat to woman and will always create imbalance in the society. We need to educate each and every person about this evil system and about the laws which are there to protect the society from such social evil system through social awareness programmes, campaigns, free legal aids, educating the youth, road plays and shows etc. To eliminate the dowry system from India, we need public will, efforts and commitment as to remove this social and materialistic evil greed for dowry.

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<sup>6</sup> A.I.R. 2006 SC 680.

<sup>7</sup> *Suresh Kumar Singh v. State of UP*, (2011) 1 SCC (Cri) 989.

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- The Indian Penal Code, 1860
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